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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140828724-4724-01]

RIN 0648-BE23

Framework Action to Modify the Commercial Annual Catch Limit/Annual Catch Target Regulations for Three Individual Fishing Quota Species Complexes

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement a framework action to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Reef Fish FMP) to modify the commercial annual catch limit (ACL) and annual catch target (ACT) regulations for three individual fishing quota (IFQ) program species complexes in the Gulf, as prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this rule would clarify that the established commercial quotas are equal to the commercial ACTs and would add commercial ACLs to the regulations for three IFQ species complexes: Other shallow-water grouper (Other SWG), deep-water grouper (DWG), and

tilefishes. The purpose of this rule is to help achieve optimum yield for IFQ species in the Gulf, while preventing overfishing, in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2014-0091", by any of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0091, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address,

etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the framework action, which includes a regulatory impact review and a Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, Southeast Regional Office, telephone: 727-824-5305.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the fisheries for Gulf Reef Fish Resources, which includes the complexes for Other SWG, DWG, and tilefishes, under the Reef Fish FMP. Other SWG includes black grouper, scamp, yellowmouth grouper, yellowfin grouper; DWG includes warsaw grouper, snowy grouper, speckled hind, yellowedge grouper; and tilefishes include golden tilefish, blueline tilefish, and goldface tilefish. The Reef Fish FMP is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. All weights specified in this rule are in gutted weight.

The framework action and this proposed rule would identify

the commercial quotas for the Other SWG, DWG, and tilefishes complexes as equal to the commercial ACTs that were specified in the Generic Annual Catch Limit/Accountability Measures Amendment (Generic ACL Amendment) and add commercial ACLs to the regulations for these same three complexes. Currently, the regulations at 50 CFR 622.41, paragraphs (c)(1), (f)(1), and (g)(1), misidentify the commercial quotas for these three IFQ species complexes, which are codified at 50 CFR 622.39, as ACLs. The commercial quotas are actually equal to the ACTs. In June 2014, the Council took action to clarify that the quotas should remain equal to the ACTs. Therefore, this rulemaking proposes modifying the language in the regulations to identify the established quotas as ACTs, and to add the ACLs specified by the Generic ACL Amendment.

Specifically, this proposed rule would maintain the current quota values for these three IFQ species complexes in 50 CFR 622.39, "Quotas", and would remove the outdated quotas for 2012 and 2013 that are specified in this section. This proposed rule would also establish that the commercial quotas are equal to the commercial ACTs (instead of the ACLs) in 50 CFR 622.41, "Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs)", and add the commercial ACLs to 50 CFR 622.41.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

This proposed rule would modify commercial ACL and ACT regulations for the DWG, Other SWG, and tilefishes, which are IFQ program species complexes in the Gulf. If implemented, the rule would clarify that the established commercial quotas are equal to the commercial ACTs and would add commercial ACLs to the regulations for the three species complexes. This clarification would not change the current commercial quotas and would therefore not affect current levels of landings.

An estimated 525 firms in the finfish fishing industry (NAICS 114111) own/operate vessels that may harvest species within three complexes. According to SBA Size Standards, a business in the finfish fishing industry (NAICS 114111) is a small business if its annual receipts are less than \$20.5 million. It is expected that a substantial number of these firms may be small businesses.

The Generic ACL Amendment specified the commercial ACLs and quotas (ACTs) for the three species complexes; however, these ACLs are not specified in current regulations. According to the Generic ACL Amendment, the current (2014) commercial ACLs for the DWG, Other SWG, and tilefishes are 1.160 million lb (0.526 million kg), 545,000 lb (247,208 kg), and 606,000 lb (274,877 kg), respectively. According to current regulations, however, the 2014 commercial quotas and commercial ACLs for the DWG, Other SWG, and tilefishes complexes are 1.110 million lb (0.503 million kg), 523,000 lb (237,229 kg), and 582,000 lb (263,991 kg), respectively. The current regulations that implemented the Generic ACL Amendment misidentify the commercial ACLs as equal to the commercial quotas. After clarifying its intent, the Council voted to identify the commercial quotas as equal to the commercial ACTs and include the commercial ACLs from the Generic ACL Amendment in the regulations. The proposed rule would

identify the commercial ACTs as equal to the commercial quotas and would specify the commercial ACLs in the regulations from the Generic ACL Amendment.

Annual commercial landings of the DWG, Other SWG, and tilefishes complexes would not be affected by this proposed rule because there would be no change in commercial quotas. Therefore, it is concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf of Mexico, Individual Fishing Quota.

Dated: September 22, 2014.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.39, paragraphs (a)(1)(ii) and (a)(1)(iii)(A) are revised to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(ii) Deep-water groupers (DWG) have a combined quota, as specified in paragraphs (a)(1)(ii)(A) through (C) of this section. These quotas are specified in gutted weight, that is eviscerated, but otherwise whole.

(A) For fishing year 2014--1.110 million lb (0.503 million kg).

(B) For fishing year 2015--1.101 million lb (0.499 million kg).

(C) For fishing year 2016 and subsequent fishing years--1.024 million lb (0.464 million kg).

(iii) * * *

(A) Other SWG combined. (1) For fishing year 2014--523,000

lb (237,229 kg).

(2) For fishing year 2015 and subsequent fishing years--
525,000 lb (238,136 kg).

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3. In § 622.41, paragraphs (c)(1), (f)(1), and (g)(1) are revised to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(c) * * *

(1) Commercial sector. The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial Other SWG. The commercial ACT for Other SWG is equal to the applicable quota specified in § 622.39(a)(1)(iii)(A). The commercial ACL for Other SWG, in gutted weight, is 545,000 lb (247,208 kg) for 2014, and 547,000 lb (248,115 kg) for 2015 and subsequent fishing years.

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(f) * * *

(1) Commercial sector. The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial DWG. The commercial ACT for DWG is equal to the applicable quota specified in § 622.39(a)(1)(ii). The

commercial ACL for DWG, in gutted weight, is 1.160 million lb (0.526 million kg) for 2014, 1.150 million lb (0.522 million kg) for 2015, and 1.070 million lb (0.485 million kg) for 2016 and subsequent fishing years.

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(g) * * *

(1) Commercial sector. The IFQ program for groupers and tilefishes in the Gulf of Mexico serves as the accountability measure for commercial tilefishes. The commercial ACT for tilefishes is equal to the quota specified in § 622.39(a)(1)(iv). The commercial ACL for tilefishes, in gutted weight, is 606,000 lb (274,877 kg).

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